

## II. Remarks

Reconsideration and re-examination of this application in view of the above amendments and the following remarks is herein respectfully requested. After entering this Amendment, claims 1-11, 13-16, 18, 20-22, and 24-27 remain pending.

Applicants would like to thank the examiner for the interview conducted on February 10, 2009. The undersigned and the examiner discussed the claims and the combination of references. Certain differences between the prior art and instant application were noted. Further, the examiner said that he would reconsider arguments regarding the combination of references. While alternative claim language was discussed, applicants and the examiner did not come to a specific agreement as to claim language that overcame the references. Although, the undersigned believes that the new claim 25 includes claim language that over comes the prior art references based on the discussion with the examiner regarding the states of deployment of the wire loops.

### *Claim Rejections - 35 U.S.C. §103*

Claims 1-11, 13-16, 18, 20-22, and 24 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,944,728 to Bates (Bates) in view of U.S. Patent No. 7,322,989 to Teague et al. (Teague) and Denison et al. (7,252,675).

Claim 1 recites "each wire loop having an opening, the openings cooperating to substantially fill the circular perimeter, further wherein moving the elongate control member distally relative to the outer sheath expands the circular perimeter and cooperatively expands the radius of the arcuate outer sections thereby increasing the openings of the wire loops to again substantially fill the circular perimeter."

Similarly, claim 24 recites that “each of the plurality of loops deploy outwardly substantially perpendicular to the longitudinal axis of the elongate control member to form an circular perimeter that adjusts based on the relative motion between the elongate control member and the outer sheath, a size and radius of loops adjusting along with the circular perimeter to substantially fill the circular perimeter.”

Bates teaches an extractor with legs not a grasper with loops. Teague also teaches an extractor with legs not a grasper with loops. The examiner relies on Denison to teach the claimed loops. However, Denison teaches a filter device with material for obstructing contaminates and a frame with struts to support the material. First, the frame of Denison is not equivalent to loops with an opening that expands or contracts to grasp an object. The struts of the frame merely support the filter material and do not operate as loops. For example, even though the frame expands when deployed, the struts actually have more curvature or a smaller radius when deployed. This is contrary to the loops of claim 1, where the radius of the arcuate outer section for each loop expands as the outer perimeter expands.

Second, the filter device operates in an all together different manner than extractors and, therefore, the combination is improper. An extractor manipulates the position of a plurality of legs in unison to capture an object. Each leg cooperates with the other legs to surround, close around, and secure the object. In Denison, the frame opens to form a shape like an umbrella. A porous material is supported by the frame. As blood flows through the vessel, contaminates bigger than the pores are trapped against the material by the blood flow. The frame does not contact and secure the contaminants, rather the material between the structure obstructs the contaminants as the blood flow pushes them against the material. However, the

examiner contends that it would be obvious to replace the legs of the Bates or Teague with the frame of Denison.

As discussed, these devices operate in altogether different manners. The examiner has not provided detailed reasoning why or how one of ordinary skill in the art would modify Bates or Teague with the structure of Denison to arrive at the claimed invention. Further, certain features of each device teach against such a combination. For example, the biasing mechanism of Teague biases the legs into a retracted state. As such, it would seem that the mechanism would bias the filter of Denison into the closed position. However, Denison discloses the frame as a self expanding structure and, therefore, biased into the expanded state.

Therefore, applicants submit that Denison does not teach the loops as claimed and, further, the combination of the filter from Denison with the extractors of Bates and Teague is improper. Accordingly, applicants request withdrawal of the rejections under 35 U.S.C. 103(a).

*New claims 25-27*

New claim 25 recites that the grasping portion has an intermediate state where each of the wire loops is substantially circular and each of the wire loops includes side sections that overlap with side sections of adjacent wire loops and that the grasping portion has a fully deployed state where each of the wire loops is pie-shaped and the side sections of the each wire loop extend radially between the elongate control member and an arcuate outer section. The cited references do not teach the intermediate and fully deployed state as claimed. As such, the cited references do not teach the invention according to claim 25.

Claims 26 and 27 depend from claim 25 and are, therefore, patentable for at least the same reasons as given above in support of claim 25.

In addition, new claim 26 recites that each side section of each wire loop is substantially parallel to an adjacent side section of an adjacent wire loop in the fully deployed state. Therefore, new claim 26 is patentable for at least these reasons as well.

*Conclusion*

In view of the above amendments and remarks, it is respectfully submitted that the present form of the claims are patentably distinguishable over the art of record and that this application is now in condition for allowance. Such action is requested.

Respectfully submitted by,

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